



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### HB0004

Introduced 1/9/2013, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 5/5-15

was 20 ILCS 5/3

20 ILCS 5/5-20

was 20 ILCS 5/4

20 ILCS 5/5-195 new

20 ILCS 5/5-425 new

30 ILCS 575/5

from Ch. 127, par. 132.605

Creates the Department of Minority and Women Inclusion Act. Creates the Department of Minority and Women Inclusion as a department of State government. Provides that the Department shall be responsible for all matters of the State Executive Branch agencies relating to diversity in management, employment, and business activities. Provides that the Governor shall appoint a Director as the head of the Department and that the Director shall develop standards for the following: (1) equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of each State Executive Branch agency; (2) increased participation of minority-owned and women-owned businesses in the programs and contracts of each State Executive Branch agency; and (3) assessing the diversity policies and practices of entities regulated by each State Executive Branch agency. Amends the Civil Administrative Code of Illinois to make conforming changes. Amends the Business Enterprise for Minorities, Females, and Persons with Disabilities Act to provide that the Department of Minority and Women Inclusion shall monitor the activities of the Business Enterprise Council for Minorities, Females, and Persons with Disabilities. Effective immediately.

LRB098 02597 JDS 32602 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Department of Minority and Women Inclusion Act.

6 Section 5. Purpose. The purpose of this Act is to provide  
7 for diversity in the employment, management, and business  
8 activities of State Executive Branch agencies and to increase  
9 the level of participation by minorities and women in such  
10 employment, management, and business activities.

11 Section 10. Definitions. In this Act:

12 "Department" means the Department of Minority and Women  
13 Inclusion.

14 "Director" means the Director of Minority and Women  
15 Inclusion.

16 "Minority person" means a person who is a citizen or lawful  
17 permanent resident of the United States and who is:

18 (1) African American (a person having origins in any of  
19 the black racial groups in Africa);

20 (2) Hispanic (a person of Spanish or Portuguese culture  
21 with origins in Mexico, South or Central America, or the  
22 Caribbean Islands, regardless of race);

1           (3) Asian American (a person having origins in any of  
2           the original peoples of the Far East, Southeast Asia, the  
3           Indian Subcontinent or the Pacific Islands);

4           (4) Native American or Alaskan Native (a person having  
5           origins in any of the original peoples of North America);  
6           or

7           (5) Middle Eastern (a person having origins in any of  
8           the original peoples of the Middle East, including, but not  
9           limited to, Bahrain, Cyprus, Egypt, Iran, Iraq, Iraqi  
10          Kurdistan, Israel, Jordan, Kuwait, Lebanon, Northern  
11          Cyprus, Oman, the Palestinian territories, Qatar, Saudi  
12          Arabia, Syria, the United Arab Emirates, and Yemen).

13          "Minority-owned business" means a business concern (i)  
14          which is at least 51% owned by one or more minority persons,  
15          or, in the case of a corporation, at least 51% of the stock in  
16          which is owned by one or more minority persons, and (ii) the  
17          management and daily business operations of which are  
18          controlled by one or more of the minority individuals who own  
19          it.

20          "State Executive Branch agency" means each State agency,  
21          department, board, and commission directly responsible to the  
22          Governor. The term does not include any State university.

23          "Woman" means a person who is a citizen or lawful permanent  
24          resident of the United States and who is of the female gender.

25          "Women-owned business" means a business concern (i) which  
26          is at least 51% owned by one or more women, or, in the case of a

1 corporation, at least 51% of the stock in which is owned by one  
2 or more women, and (ii) the management and daily business  
3 operations of which are controlled by one or more of the women  
4 who own it.

5 Section 15. Creation of Department; Director.

6 (a) The Department of Minority and Women Inclusion is  
7 created as a department of State government. The Department  
8 shall be responsible for all matters of the State Executive  
9 Branch agencies relating to diversity in management,  
10 employment, and business activities. The Department shall  
11 monitor the activities of the Business Enterprise Council for  
12 Minorities, Females, and Persons with Disabilities created  
13 under the Business Enterprise for Minorities, Females, and  
14 Persons with Disabilities Act.

15 (b) The Governor shall appoint the Director as the head of  
16 the Department.

17 Section 20. Director's duties.

18 (a) The Director shall develop standards for the following:

19 (1) Equal employment opportunity and the racial,  
20 ethnic, and gender diversity of the workforce and senior  
21 management of each State Executive Branch agency.

22 (2) Increased participation of minority-owned and  
23 women-owned businesses in the programs and contracts of  
24 each State Executive Branch agency, including standards

1 for coordinating technical assistance to such businesses.

2 (3) Assessing the diversity policies and practices of  
3 entities regulated by each State Executive Branch agency.

4 (b) The Director shall develop and implement standards and  
5 procedures to ensure, to the maximum extent possible, the fair  
6 inclusion and utilization of minority persons, women, and  
7 minority-owned and women-owned businesses in all business and  
8 activities of each State Executive Branch agency at all levels,  
9 including in procurement, insurance, and all types of  
10 contracts.

11 (c) The Director shall ensure that each State Executive  
12 Branch agency establishes procedures for review and evaluation  
13 of contract proposals and for hiring service providers that  
14 include, to the extent consistent with applicable law, a  
15 component that gives consideration to the diversity of the  
16 applicant. The procedures shall include a written statement, in  
17 the form and with the content prescribed by the Director, that  
18 a contractor shall ensure, to the maximum extent possible, the  
19 fair inclusion of women and minority persons in the workforce  
20 of the contractor and, as applicable, subcontractors.

21 (d) The standards and procedures developed and implemented  
22 under this Section shall include a procedure for the Director  
23 to determine whether a State Executive Branch agency contractor  
24 or subcontractor has failed to make a good faith effort to  
25 include minority persons and women in its workforce. If the  
26 Director determines that a State Executive Branch agency

1 contractor or subcontractor has failed to make a good faith  
2 effort to include minority persons and women in its workforce,  
3 the Director shall recommend to the head of the State Executive  
4 Branch agency that the contract be terminated. Upon receiving  
5 such a recommendation from the Director, the head of the  
6 affected agency may terminate the contract or take other  
7 appropriate action.

8 Section 25. Diversity in agency workforce. The Director  
9 shall ensure that each State Executive Branch agency takes  
10 affirmative steps to seek diversity in the workforce of the  
11 agency at all levels of the agency in a manner consistent with  
12 applicable law. These steps shall include the following:

13 (1) Recruiting at historically black colleges and  
14 universities, Hispanic-serving institutions, women's  
15 colleges, and colleges that typically serve majority  
16 minority populations.

17 (2) Sponsoring and recruiting at job fairs in urban  
18 communities.

19 (3) Placing employment advertisements in newspapers  
20 and magazines oriented toward minorities and women.

21 (4) Partnering with organizations that are focused on  
22 developing opportunities for minorities and women to place  
23 talented young minority persons and women in industry  
24 internships, summer employment, and full-time positions.

25 (5) When feasible, partnering with inner-city high

1 schools, girls' high schools, and high schools with  
2 majority minority populations to establish or enhance  
3 economic literacy programs and provide mentoring.

4 (6) Producing any other mass media communications that  
5 the Director deems necessary.

6 Section 30. Application of Act. This Act applies to all  
7 contracts of a State Executive Branch agency for services of  
8 any kind and for all business and activities of the agency,  
9 including contracts for implementing the agency's programs.  
10 The requirements of this Act are in addition to the  
11 requirements of the Business Enterprise for Minorities,  
12 Females, and Persons with Disabilities Act and all other  
13 applicable laws.

14 Section 35. Reports. Each year, on or before March 1, the  
15 Director shall report the following to the Governor and the  
16 General Assembly for the preceding calendar year:

17 (1) A statement of the total amounts paid by each State  
18 Executive Branch agency to contractors since the previous  
19 report.

20 (2) The percentage of the amounts described in  
21 paragraph (1) that were paid to minority-owned and  
22 women-owned businesses.

23 (3) The successes achieved and the challenges faced by  
24 each State Executive Branch agency in operating minority

1 and women outreach programs.

2 (4) The challenges each State Executive Branch agency  
3 may face in hiring qualified minority and women employees  
4 and contracting with qualified minority-owned and  
5 women-owned businesses.

6 (5) Any other information, findings, conclusions, and  
7 recommendations for legislative or agency action, as the  
8 Director deems appropriate.

9 Section 90. The Civil Administrative Code of Illinois is  
10 amended by changing Sections 5-15 and 5-20 and by adding  
11 Sections 5-195 and 5-425 as follows:

12 (20 ILCS 5/5-15) (was 20 ILCS 5/3)

13 Sec. 5-15. Departments of State government. The  
14 Departments of State government are created as follows:

15 The Department on Aging.

16 The Department of Agriculture.

17 The Department of Central Management Services.

18 The Department of Children and Family Services.

19 The Department of Commerce and Economic Opportunity.

20 The Department of Corrections.

21 The Department of Employment Security.

22 The Illinois Emergency Management Agency.

23 The Department of Financial and Professional Regulation.

24 The Department of Healthcare and Family Services.

1 The Department of Human Rights.  
2 The Department of Human Services.  
3 The Department of Juvenile Justice.  
4 The Department of Labor.  
5 The Department of the Lottery.  
6 The Department of Minority and Women Inclusion.  
7 The Department of Natural Resources.  
8 The Department of Public Health.  
9 The Department of Revenue.  
10 The Department of State Police.  
11 The Department of Transportation.  
12 The Department of Veterans' Affairs.

13 (Source: P.A. 96-328, eff. 8-11-09; 97-618, eff. 10-26-11.)

14 (20 ILCS 5/5-20) (was 20 ILCS 5/4)

15 Sec. 5-20. Heads of departments. Each department shall have  
16 an officer as its head who shall be known as director or  
17 secretary and who shall, subject to the provisions of the Civil  
18 Administrative Code of Illinois, execute the powers and  
19 discharge the duties vested by law in his or her respective  
20 department.

21 The following officers are hereby created:

22 Director of Aging, for the Department on Aging.

23 Director of Agriculture, for the Department of  
24 Agriculture.

25 Director of Central Management Services, for the

1 Department of Central Management Services.

2 Director of Children and Family Services, for the  
3 Department of Children and Family Services.

4 Director of Commerce and Economic Opportunity, for the  
5 Department of Commerce and Economic Opportunity.

6 Director of Corrections, for the Department of  
7 Corrections.

8 Director of the Illinois Emergency Management Agency, for  
9 the Illinois Emergency Management Agency.

10 Director of Employment Security, for the Department of  
11 Employment Security.

12 Secretary of Financial and Professional Regulation, for  
13 the Department of Financial and Professional Regulation.

14 Director of Healthcare and Family Services, for the  
15 Department of Healthcare and Family Services.

16 Director of Human Rights, for the Department of Human  
17 Rights.

18 Secretary of Human Services, for the Department of Human  
19 Services.

20 Director of Juvenile Justice, for the Department of  
21 Juvenile Justice.

22 Director of Labor, for the Department of Labor.

23 Director of Minority and Women Inclusion, for the  
24 Department of Minority and Women Inclusion.

25 Director of Natural Resources, for the Department of  
26 Natural Resources.

1 Director of Public Health, for the Department of Public  
2 Health.

3 Director of Revenue, for the Department of Revenue.

4 Director of State Police, for the Department of State  
5 Police.

6 Secretary of Transportation, for the Department of  
7 Transportation.

8 Director of Veterans' Affairs, for the Department of  
9 Veterans' Affairs.

10 (Source: P.A. 96-328, eff. 8-11-09; 97-464, eff. 10-15-11;  
11 97-618, eff. 10-26-11; 97-813, eff. 7-13-12.)

12 (20 ILCS 5/5-195 new)

13 Sec. 5-195. In the Department of Minority and Women  
14 Inclusion. Assistant Director of Minority and Women Inclusion.

15 (20 ILCS 5/5-425 new)

16 Sec. 5-425. In the Department of Minority and Women  
17 Inclusion. The Director of Minority and Women Inclusion shall  
18 receive an annual salary as set by the Governor from time to  
19 time or as set by the Compensation Review Board, whichever is  
20 greater.

21 Section 92. The Business Enterprise for Minorities,  
22 Females, and Persons with Disabilities Act is amended by  
23 changing Section 5 as follows:

1 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

2 (Section scheduled to be repealed on June 30, 2016)

3 Sec. 5. Business Enterprise Council.

4 (1) To help implement, monitor and enforce the goals of  
5 this Act, there is created the Business Enterprise Council for  
6 Minorities, Females, and Persons with Disabilities,  
7 hereinafter referred to as the Council, composed of the  
8 Secretary of Human Services and the Directors of the Department  
9 of Human Rights, the Department of Commerce and Economic  
10 Opportunity, the Department of Central Management Services,  
11 the Department of Transportation and the Capital Development  
12 Board, or their duly appointed representatives. Ten  
13 individuals representing businesses that are minority or  
14 female owned or owned by persons with disabilities, 2  
15 individuals representing the business community, and a  
16 representative of public universities shall be appointed by the  
17 Governor. These members shall serve 2 year terms and shall be  
18 eligible for reappointment. Any vacancy occurring on the  
19 Council shall also be filled by the Governor. Any member  
20 appointed to fill a vacancy occurring prior to the expiration  
21 of the term for which his predecessor was appointed shall be  
22 appointed for the remainder of such term. Members of the  
23 Council shall serve without compensation but shall be  
24 reimbursed for any ordinary and necessary expenses incurred in  
25 the performance of their duties.

1           The Director of the Department of Central Management  
2 Services shall serve as the Council chairperson and shall  
3 select, subject to approval of the council, a Secretary  
4 responsible for the operation of the program who shall serve as  
5 the Division Manager of the Business Enterprise for Minorities,  
6 Females, and Persons with Disabilities Division of the  
7 Department of Central Management Services.

8           The Director of each State agency and the chief executive  
9 officer of each State university shall appoint a liaison to the  
10 Council. The liaison shall be responsible for submitting to the  
11 Council any reports and documents necessary under this Act.

12           (2) The Council's authority and responsibility shall be to:

13           (a) Devise a certification procedure to assure that  
14 businesses taking advantage of this Act are legitimately  
15 classified as businesses owned by minorities, females, or  
16 persons with disabilities.

17           (b) Maintain a list of all businesses legitimately  
18 classified as businesses owned by minorities, females, or  
19 persons with disabilities to provide to State agencies and  
20 State universities.

21           (c) Review rules and regulations for the  
22 implementation of the program for businesses owned by  
23 minorities, females, and persons with disabilities.

24           (d) Review compliance plans submitted by each State  
25 agency and State university pursuant to this Act.

26           (e) Make annual reports as provided in Section 8f to

1 the Governor and the General Assembly on the status of the  
2 program.

3 (f) Serve as a central clearinghouse for information on  
4 State contracts, including the maintenance of a list of all  
5 pending State contracts upon which businesses owned by  
6 minorities, females, and persons with disabilities may  
7 bid. At the Council's discretion, maintenance of the list  
8 may include 24-hour electronic access to the list along  
9 with the bid and application information.

10 (g) Establish a toll free telephone number to  
11 facilitate information requests concerning the  
12 certification process and pending contracts.

13 (3) No premium bond rate of a surety company for a bond  
14 required of a business owned by a minority, female, or person  
15 with a disability bidding for a State contract shall be higher  
16 than the lowest rate charged by that surety company for a  
17 similar bond in the same classification of work that would be  
18 written for a business not owned by a minority, female, or  
19 person with a disability.

20 (4) Any Council member who has direct financial or personal  
21 interest in any measure pending before the Council shall  
22 disclose this fact to the Council and refrain from  
23 participating in the determination upon such measure.

24 (5) The Secretary shall have the following duties and  
25 responsibilities:

26 (a) To be responsible for the day-to-day operation of

1 the Council.

2 (b) To serve as a coordinator for all of the State's  
3 programs for businesses owned by minorities, females, and  
4 persons with disabilities and as the information and  
5 referral center for all State initiatives for businesses  
6 owned by minorities, females, and persons with  
7 disabilities.

8 (c) To establish an enforcement procedure whereby the  
9 Council may recommend to the appropriate State legal  
10 officer that the State exercise its legal remedies which  
11 shall include (1) termination of the contract involved, (2)  
12 prohibition of participation by the respondent in public  
13 contracts for a period not to exceed one year, (3)  
14 imposition of a penalty not to exceed any profit acquired  
15 as a result of violation, or (4) any combination thereof.  
16 Such procedures shall require prior approval by Council.

17 (d) To devise appropriate policies, regulations and  
18 procedures for including participation by businesses owned  
19 by minorities, females, and persons with disabilities as  
20 prime contractors including, but not limited to, (i)  
21 encouraging the inclusions of qualified businesses owned  
22 by minorities, females, and persons with disabilities on  
23 solicitation lists, (ii) investigating the potential of  
24 blanket bonding programs for small construction jobs,  
25 (iii) investigating and making recommendations concerning  
26 the use of the sheltered market process.

1           (e) To devise procedures for the waiver of the  
2 participation goals in appropriate circumstances.

3           (f) To accept donations and, with the approval of the  
4 Council or the Director of Central Management Services,  
5 grants related to the purposes of this Act; to conduct  
6 seminars related to the purpose of this Act and to charge  
7 reasonable registration fees; and to sell directories,  
8 vendor lists and other such information to interested  
9 parties, except that forms necessary to become eligible for  
10 the program shall be provided free of charge to a business  
11 or individual applying for the program.

12           (6) The Department of Minority and Women Inclusion shall  
13 monitor the Council's activities, as provided in the Department  
14 of Minority and Women Inclusion Act.

15           (Source: P.A. 94-793, eff. 5-19-06.)

16           Section 99. Effective date. This Act takes effect upon  
17 becoming law.